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9 TC Rich, LLC, Rifle Freight, Inc., Fleischer Customs Brokers, Richard G.
10 Fleischer, and Jacqueline Fleischer

11 **UNITED STATES DISTRICT COURT**

12 **CENTRAL DISTRICT OF CALIFORNIA**

13 TC RICH, LLC, a California Limited
14 Liability Company, RIFLE FREIGHT,
15 INC., a California corporation,
16 FLEISCHER CUSTOMS BROKERS, a
17 sole proprietorship, RICHARD G.
18 FLEISCHER, an individual, and
19 JACQUELINE FLEISCHER, an
20 individual,

21 Plaintiffs,

22 v.

23 PACIFICA CHEMICAL,
24 INCORPORATED, a California
25 Corporation, AQUA SCIENCE
26 ENGINEERS, INC., a California
27 Corporation, A/E WEST
28 CONSULTANTS, INC., a Nevada
Corporation, and DOES 1 through 10,
inclusive,

Defendants.

AND ALL RELATED CROSS-ACTIONS

Case No. CV 15-4878 DMG (AGRx)

Assigned to the Hon. Dolly M. Gee

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR (1)
MODIFICATION OF
SCHEDULING ORDER AND (2)
LEAVE TO FILE FIRST
AMENDED COMPLAINT**

Hearing Date: April 19, 2019
Time: 9:30 a.m.
Courtroom: 8C

Action filed: June 26, 2015
Discovery cut-off: None set
Trial date: None set

TC RICH v. Pacifica Chemical, et al.
USDC Case No. CV 15-4878 DMG (AGRx)

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR (1)
MODIFICATION OF SCHEDULING ORDER
AND (2) LEAVE TO FILE FIRST AMENDED
COMPLAINT**

1 The Court has duly considered the motion, papers, and argument(s) submitted
 2 in support of and in opposition to Plaintiffs TC RICH, LLC, Rifle Freight, Inc.,
 3 Fleischer Customs Brokers, Richard G. Fleischer, and Jacqueline Fleischer's ("TC
 4 Rich," or "Plaintiffs") Motion for Modification of the Scheduling Order and Leave
 5 to File a First Amended Complaint ("Motion").

6 FRCP 15(a) provides that leave to amend a pleading should be "freely given
 7 when justice so requires." The Ninth Circuit has stated that this policy favoring
 8 amendment should be applied with "extreme liberality." *Morongo Band of Mission*
 9 *Indians v. Rose*, 893 F.2d 1074, 1079 (9th Cir. 1990). However, when the time for
 10 amending a pleading set forth in a court's scheduling order has passed, a party
 11 wishing to amend its pleading must show "good cause" for modifying the
 12 scheduling order to allow for the amendment. FRCP 16(b). The good cause inquiry
 13 focuses on the reasonable diligence of the moving party. *See Johnson v. Mammoth*
 14 *Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).

15 Plaintiffs were reasonable in their decision not to previously seek leave to
 16 amend the original complaint to include a RCRA cause of action in light of Pacifica
 17 Chemical's cooperation with DTSC and the parties' productive settlement
 18 discussions. Although the deadline for amending pleadings has passed, Plaintiffs'
 19 delay in seeking leave to amend their original complaint is not due to a lack of
 20 diligence.

21 Finding good cause therefore, the Court hereby GRANTS Plaintiffs' Motion
 22 and orders the following:

- 23 1. The scheduling order in this matter is modified such that the last day for
 24 either party to file an amended pleading is _____, 2019.
- 25 2. Plaintiffs are granted leave to file the First Amended Complaint to
 26 incorporate their proposed RCRA cause of action.

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IT IS SO ORDERED.

Dated:

Honorable Dolly M. Gee
United States District Judge